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26 RX2LIVE, LLC AND RX2LIVE, INC.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

3M COMPANY,

Plaintiff,

vs.

RX2LIVE, LLC and RX2LIVE, INC.,

Defendants.

Case No. 1:20-cv-00523-NONE-SAB

**STIPULATED PRELIMINARY
INJUNCTION AGAINST RX2LIVE,
LLC AND RX2LIVE, INC.**

Action Filed: April 10, 2020
Amended Complaint Filed: April 19, 2020
Jury Trial Demanded

1 The undersigned counsel for Plaintiff 3M Company (“Plaintiff” or “3M”) and Defendants
2 RX2Live, LLC and RX2Live, Inc. (“Defendants” or “RX2Live”) (collectively, the “Stipulating
3 Parties”), in the above-captioned action, hereby stipulate and agree that:

4 **WHEREAS**, 3M filed the above-captioned case against RX2Live, LLC in the Eastern
5 District of California, Fresno Division, on April 10, 2020;

6 **WHEREAS**, 3M amended its Complaint on April 19, 2020 to add Defendant RX2Live,
7 Inc., which owns 100% of the assets of Defendant RX2Live, LLC, and served Defendants on April
8 20, 2020;

9 **WHEREAS**, on April 27, 2020, 3M filed a motion for a temporary restraining order
10 (“TRO”) and preliminary injunction as to its federal and state claims for trademark infringement
11 and dilution, unfair competition, false endorsement, false association, false designation of origin,
12 and unlawful, unfair, and fraudulent business acts and practices. (Doc. No. 14-1.);

13 **WHEREAS**, on April 30, 2020, the Court granted 3M’s motion for a TRO in its entirety
14 and further ordered that Defendants appear before The Honorable Dale A. Drozd, District Judge,
15 United States District Court for the Eastern District of California, on May 12, 2020, at 10:00 a.m.
16 (Pacific Time), and show cause as to why the court should not enter an order granting a preliminary
17 injunction against Defendants;

18 **WHEREAS**, Defendants state that they are entering into this Stipulation in order to avoid
19 the cost of responding to 3M’s motion for a preliminary injunction because Defendants state that
20 they have never marketed or sold 3M products, and have no present intention of marketing or selling
21 3M products, except that Defendants did attempt for a short time to market and sell the 3M N95
22 masks at issue in this action as an agent of another company;

23 **WHEREAS**, by entering into this Stipulation and agreeing to provide the reports required
24 by Paragraph 5 below, Defendants do not admit any issue of law or fact, or admit any responsibility,
25 wrongdoing, liability, or guilt, including but not limited to the allegations made by the 3M in its
26 Amended Complaint, and affirmatively denies same;

27 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by and between the Stipulating
28 Parties, through their respective counsel, to the entry of a preliminary injunction as follows:

1 1. Pursuant to Fed. R. Civ. P. 65(a), Defendants, their agents, servants, employees,
2 officers and all persons and entities in active concert and participation with them, are enjoined
3 during the pendency of this action from engaging in any false, misleading, and/or deceptive conduct
4 in connection with 3M and its products, including, without limitation, representing themselves as
5 being authorized distributors, vendors, agents, representatives, retailers, and/or licensees of 3M
6 and/or any of 3M's products (including, without limitation, 3M-brand N95 respirators); falsely
7 representing to have an association or affiliation with, sponsorship by, and/or connection with, 3M
8 and/or any of 3M's products; falsely representing that 3M has increased the price(s) of its 3M-
9 brand N95 respirators; and offering to sell any of 3M's products at a price and/or in a manner that
10 would constitute a violation California Penal Code § 396 and/or California Business and
11 Professions Code §§ 17200 *et seq.*

12 2. Pursuant to the Court's equitable powers and discretion, and because of 3M's
13 financial standing, 3M need not post a bond.

14 3. This Court shall retain jurisdiction to hear and determine all matters arising out of,
15 relating to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

16 4. The Temporary Restraining Order entered against Defendants in this action on April
17 30, 2020 (Doc. No. 18) is vacated and superseded by this Order.

18 5. Defendants shall file a written report detailing the steps taken to comply with this
19 Order on June 1, 2020, and thereafter on the first day of each quarter, continuing throughout the
20 pendency of this action, except that in any such subsequent quarter, a certification that Defendants
21 are not selling, attempting to sell, advertising or otherwise involved in the marketing of any 3M
22 product shall suffice for such report.

23 6. This stipulation shall not be admissible and shall not be otherwise accorded any
24 evidentiary weight or value in connection with any determination of the merits in this action,
25 whether by trial, summary judgment or otherwise.
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1 **AGREED TO AND STIPULATED UPON.**

2 Dated: May 6, 2020

By: /s/ Carmine R. Zarlenga

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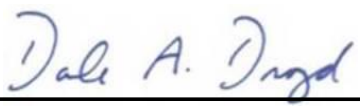
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21 *Attorneys for Defendants*

RX2LIVE, LLC and RX2LIVE, INC.

22 IT IS SO ORDERED.

23 Dated: May 8, 2020

24 
UNITED STATES DISTRICT JUDGE